

Serial No. 10/575,557

Art Unit: 3773  
Examiner: Phong Son H. Dang**REMARKS**

In response to the Patent Office Action of November 9, 2009, the Applicant respectfully requests reexamination and reconsideration. To further the prosecution of this application, amendments have been made in each of the originally pending independent claims and new claims 21-29 have been added to the application in order to afford the Applicant a complete scope of claim coverage.

In the Patent Office Action in paragraph 2, the Examiner has set forth a rejection of claims 1-6, 11, 15-18 and 20 under 35 U.S.C. §102(b) as anticipated by the Freitas et al. U.S. Patent No. 5,486,185. In paragraphs 4 and 5 of the Patent Office Letter, claims 7-9, 10, 12-14 and 19 have been rejected under 35 U.S.C. §103(a) citing the patent to Freitas et al. in combination with either the Nobis et al. patent or the Matsutani et al. patent. With regard to the main elements in independent claims, the Freitas et al. '185 patent represents the primary rejection.

With regard to the Freitas et al. '185 patent, the Examiner relies upon the following elements. For the recited "trigger," the Examiner relies upon the trigger 140 disclosed in Fig. 4 of the Freitas et al. '185 patent. For the "visual indicator means," the Examiner relies upon the slot 164 also illustrated in Fig. 4 of the Freitas et al. '185 patent. For the "stop means," the Examiner relies upon the locking pin 170 in Freitas et al. '185.

Before discussing this reference in further detail, consideration is now given to the principles of the present invention which relates to the use on the trigger of a visual indication means that preferably comprises an elongated linear feature that is easily discernible by a surgeon and that enables the surgeon to readily set the trigger to a correct position. By way of example, this is shown in Fig. 2 of the present application by the visual indicator line 20. This indication comes about primarily by the interaction of this indicator line 20 with a side surface of the handle. In this regard also refer to Fig. 8 and the illustrative texture change line 163. In this

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regard, also refer to the revised sheet 4 of the drawings wherein the lead line for the reference number 163 now properly is directed to this texture change line.

Now, with further regard to the Freitas et al. '185 reference, the slot 164 is not at all intended as any type of a visual indicator. In this reference they describe the slot 164 as a "circular locking slot." This is simply for engagement by the locking pin 170. It is furthermore noted that the locking pin 170 operates by extending through both sides of the handle. Moreover, upon less than half actuation of the trigger 140 in this reference the slot 164 simply disappears into the handle and thus cannot be considered as any indicator at all as far as the surgeon is concerned.

Another characteristic of the Freitas et al. '185 patent is that the member 170 is a "lock" and in essence is not a "stop." When the locking pin 170 is engaged, then the trigger 140 is locked in a particular position and cannot be moved either in or out. On the other hand, the stop member of the present invention simply limits the inward depression of the trigger relative to the handle. As such, the stop member of the present invention is selectively engageable with the indicator line and is cooperative with an outer surface of the handle to prevent movement of a trigger past a predetermined position. This is not at all the effect of the structure illustrated in the Freitas et al. reference.

Regarding the other two references relied upon by the Examiner, in view of the amendments in the main independent claims and the submission of new claims, it is believed that these rejections are no longer pertinent based upon these two patents.

Now, reference is made to amendments made in the claims and in particular made in the pending independent claims 1, 14 and 15. In amending claim 1, for example, other minor changes have been made in the claims so as to make the language consistent. Also, the claimed visual indicator means is now more particularly defined. This is defined as forming an elongate visual indicator line that extends a substantial distance over the trigger means to provide a visual indication even when the trigger means is being gripped by one or more digits of a user's hand.

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This added language to claim 1 should clearly distinguish this claim over the prior art relied upon by the Examiner. Other minor changes have been made in dependent claims 5 and 10.

With regard to the other independent claims, namely claims 14 and 15, similar amendments have also been made. For example, claim 14 now defines the visual indicator means as a visual indicator line that extends a substantial distance over the trigger indicating a defined intermediate position of the trigger and in which the indicator line is defined by a change in surface texture. Claim 15 also defines the visual indicator as being defined by an elongate visual indicator line that extends a substantial distance over a visual surface of the trigger. Claim 15 also adds that the handle portion includes a recess with the trigger being pivotally mounted within the handle portion to extend through the recess for axis by a user of the appliance. These amendments in claim 15 should also patentably distinguish this claim over the prior art. Other amendments have been made in claims 17 an 20.

By this response, the Applicant has also added new claims 21-29. Claims 21-23 are dependent claims that recite further important features of the present invention. Claims 21-23 relate directly or indirectly back to the third independent claim 15.

The Applicant has also added a fourth independent claim, namely claim 24. It is noted in claim 24 that this also includes the limitation of the visual indicator line extending a substantial distance over a visual surface of the trigger. Claim 24 also defines an elongated removable stop member that is selectively engageable with the visual indicator line and cooperative with an outer surface of the handle to prevent movement of the trigger past a predetermined position. Again, at least these limitations found in claim 24 should clearly patentably distinguish this claim over the prior art and in particular over the Freitas et al. '185 reference. Claims 25-29 have also been added to this application and recite further patentably distinguishing features. For the same reason as previously stated, these dependent claims should also now be found in condition for allowance.

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**CONCLUSION**

In view of the foregoing amendments and remarks, the Applicants respectfully submit that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicants hereby request a telephone or personal interview to facilitate the resolution of any remaining matters. Applicants' attorney may be contacted by telephone at the number indicated below to schedule such an interview.

The U.S. Patent and Trademark Office is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to my credit card, a credit card payment form is enclosed.

Respectfully submitted,

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By:   
David M. Driscoll, Reg. No. 25,075  
Applicant's Attorney  
1201 Canton Avenue  
Milton, MA 02186  
Tel: (617) 333-0925  
Fax: (401) 861-1953